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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/080,897	02/22/2002	Steven B. Liebers	D1062/20012	9375

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EXAMINER

BUI, LUAN KIM

ART UNIT PAPER NUMBER

3728

DATE MAILED: 02/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/080,897

Applicant(s)

LIEBERS ET AL.

Examiner

Luan K Bui

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-16 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2-3</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-8, 10, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Strauss et al. (5,249,675; hereinafter Strauss'675) in view of Foster (2,720,305) and Gardiner et al. (4,749,082; hereinafter Gardiner'082). Strauss'675 disclose a package for non-prescription reading glasses comprising a transparent container (10, 14) having a cavity, a pair of non-prescription reading glasses positioned within the cavity of the container and is visible to a consumer through the container. Strauss'675 also disclose the other claimed limitations except for a case for the glasses being positioned separately from the reading glasses within the container (in claims 1 and 15, the case can be positioned outside the package and behind the container but does not to be within the container since there is no such requirement in the claims). Foster shows that it is old and conventional to provide a case for a pair of glasses. Gardiner'082 teach a display package (310) having an aperture adapted to suspend on a support rod of a rack comprising a container having a first cavity for holding a case (365) of a knife, a second cavity for holding a knife (312) and an aperture adapted to suspend on a support rod of a rack (Figures 11-13). It would have been obvious to one having ordinary skill in the art at the time the invention was made in view of Foster and Gardiner'082 to modify the package of Strauss'675 so it includes a case for holding the pair of non-prescription reading glasses as taught by Foster for better protecting the glasses when not in use and the container includes a first

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cavity for holding the case separate from the cavity for holding the glasses as taught by Gardiner'082 to allow a potential customer to inspect the glasses prior of purchasing. As to claims 15 and 16, it would have been obvious to one having ordinary skill in the art in view of Gardiner'082 to modify the package of Strauss'675 as modified so it includes a display rack having rods for holding a plurality of packages.

3. Claims 11, 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pacelli (3,116,829) in view of Strauss et al. (5,249,675; hereinafter Strauss'675). Pacelli discloses a package (2) for sunglasses comprising a transparent container (4) having a front section (14, 16, 18) and a rear section (40) and a pair of sunglasses secured within the sections. The sunglasses positioned horizontally within the container and having the temples pass through openings (46, 48) in a rear face and folded against the rear face. The temples is adapted to be opened to project horizontally from the sunglasses and the container is adapted to be placed on the face of a potential customer with the temples placed over the customer's ears and the lenses is viewable through the rear face and the front face. Pacelli also discloses the other claimed limitations except for the sunglasses being a pair of non-prescription reading glasses. Strauss'675 show a package for non-prescription reading glasses comprising a transparent container (10, 14) having a cavity, a pair of non-prescription reading glasses positioned within the cavity of the container and is visible to a consumer through the container. It would have been obvious to one having ordinary skill in the art in view of Strauss'675 to modify the package of Pacelli so the package is used to hold a pair of non-prescription reading glasses to allow the package for holding various types of glasses.

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4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 11 above, and further in view of Weaver (2,461,792). Pacelli further fails to show spaced openings being in the rear section and the front section and aligned with the lenses of the glasses. Weaver shows an eyeglass case comprising a rear section (1) having spaced openings (15, 16) and a front section (5) having spaced openings (17, 18). The openings aligned with the lenses positioned within the case. It would have been obvious to one having ordinary skill in the art in view of Weaver to modify the package of Pacelli so each of the front section and the rear section includes spaced openings aligned with the lenses to allow the potential customer to view the lenses within the container without removing the glasses from the container.

***Allowable Subject Matter***

5. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

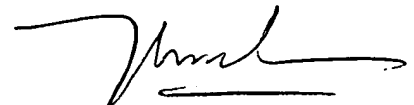
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb  
February 6, 2004



Luan K. Bui  
Primary Examiner